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of Transportation

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**Rookery Road and River Camp Bridge Project
Little Pend Oreille National Wildlife Refuge—WA RRP LIPE 12(1)
De minimis Section 4(f) Determination**

**23 CFR 138 and 49 USC 303 as amended by Public Law 109-59
Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU),
Section 6009, of August 10, 2005**

Introduction

The Western Federal Lands Highway Division (WFLHD), in cooperation with the U.S. Fish and Wildlife Service (USFWS) plans to perform several transportation facility improvements within the Little Pend Oreille National Wildlife Refuge. The Refuge is located 13 miles southeast of Colville, in Stevens County, Washington. Work is scheduled to be completed in multiple phases, with the first phase occurring between spring 2007 and fall 2008. Subsequent phases will be programmed for later years.

Purpose and Need

The project is intended to provide continued safe, convenient access to recreational areas and a safe, efficient haul route for commercial interests, primarily logging, that use the Refuge roads. The roads scheduled for regravelling provide access to selected recreational sites, hunting and fishing areas, and campgrounds. These routes also provide access to interior areas of the Refuge for maintenance and emergency services such as fire protection. Commercial interests located in the surrounding vicinity, and associated with inholdings, use oversized vehicles on these roads for hauling timber, transporting supplies, and for general maintenance and property access.

The existing road surfaces exhibit rutting and washboarding and minimal aggregate surface in some areas. Routes become impassible in wet conditions, restricting Refuge personnel access to the interior of the Refuge. Regravelling is necessary to provide smoother, safer, and more reliable traveling routes for recreationists, maintenance vehicles, and oversized loads, and to extend the service life of these roads.

The routes are single-lane width, and currently there are lengthy stretches of road with no formal space for a vehicle to pull off when encountering oncoming traffic. This lack of formal turnouts poses safety risks to Refuge personnel and recreationists who encounter heavy haul vehicles and must back up for extended distances, often along narrow, blind curves.



If a heavy haul vehicle is descending and the maintenance or recreational vehicle is climbing, the smaller vehicle is forced to back up downhill, creating a safety problem. The proposed formalization of the turnouts is necessary to permit vehicles to pull out of the line of oncoming traffic, and provide safe locations for stranded motorists, disabled vehicles, and installing or removing tire chains in changing weather conditions.

The River Camp bridge abutments show wear and tear, and overflow conditions during high flow incidents are eroding adjacent embankments. The bridge provides the sole access to a campground and day use area with restroom and picnic facilities. Stabilizing and reinforcing the bridge is necessary to provide continued access to these areas for both recreational and maintenance activities.

The improvements at the McDowell Lake Parking area are necessary to restore safe, convenient access to the lake. The surface currently exhibits uneven elevation, rutting, and washboarding. The formalization of the parking area on Rookery Road will accommodate vehicles which currently pull off the road at this location for hunting and wildlife viewing opportunities. Vehicles currently parking at this location have inhibited vegetative growth. The proposed formalization of this casual use parking area will provide space for three vehicles in an area that is naturally suited to recreational access, adjacent to the road and near a series of beaver ponds. The parking area is needed to provide sufficient parking for recreational users and prevent recreationists from parking off road in habitat areas or otherwise crossing through undeveloped areas.

The culverts on the North Fork Bear Creek are inadequate to provide sufficient aquatic organism passage or prevent debris buildup. Replacing these structures is necessary to permit adequate movement of aquatic organisms and the passage of debris to prevent blockage and buildup.

The proposed riprap lined ditches that will be located on several steep grades are necessary to alleviate continued erosion. The current ditch lines are badly eroded and encroaching on the roadway. Rehabilitation is necessary to channelize flow and dissipate flow velocities that currently contribute to erosion.

Section 4(f) Protection of Resources

Section 4(f) of the Department of Transportation Act of 1966 (Public Law 89-670), 49 USC 303 and 23 USC 138, as amended, allows the Secretary to “. . .approve a transportation program or project . . . requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance, or land of an historic site of national, State, or local significance (as determined by the Federal, State, or local officials having jurisdiction over the park, area, refuge, or site) only if:

- (1) there is no prudent and feasible alternative to using that land; and
- (2) the program or project includes all possible planning to minimize harm to the park, recreation area, wildlife and waterfowl refuge, or historic site resulting from the use.”

Section 6009 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU, Public Law 109-59), 23 USC 139, amended **Section 4(f)** legislation to simplify Section 4(f) evaluation and approval of projects that have only minimal (*de minimis*)

impacts on protected lands. This amendment allows an impact to a park, recreation area, or wildlife and waterfowl refuge that qualifies for protection under Section 4(f) to be determined to be *de minimis* if:

- (1) The transportation use of the Section 4(f) resource, including any impact avoidance, minimization, and mitigation or enhancement measures incorporated into the project, does not adversely affect the activities, features, and attributes that qualify the resource for protection under Section 4(f); and
- (2) The officials with jurisdiction over the property are informed of FHWA's intent to make the *de minimis* determination, and provide written concurrence that the project will not adversely affect the activities, features, and attributes that qualify the property for protection under Section 4(f); and
- (3) The public has been given the opportunity to review and comment on project effects on the protected activities, features, and attributes of the Section 4(f) resource.

The amendments further allow that after the U.S. Department of Transportation (DOT) has considered any impact avoidance, minimization, and mitigation or enhancement measures, and made the *de minimis* determination, that it is not necessary to analyze avoidance alternatives, and the Section 4(f) evaluation process is complete.

Section 4(f) Resource

The routes proposed for improvement during the phases of the proposed project are located within the Little Pend Oreille National Wildlife Refuge, managed by the USFWS. The Refuge comprises over 40,000 acres located on the west slope of the Selkirk Mountain Range. Refuge lands range in elevation from 1800 feet on the western lowlands to 5600 feet on the eastern boundary at Olson Peak. The Refuge is the only mountainous, mixed-conifer forest refuge in the contiguous United States, and was established in 1939 as a refuge and breeding ground for migratory birds and other wildlife. The majority of the Refuge land was acquired through the Resettlement Administration, which retired marginal farmland. Additional acreage was purchased from willing settlers, or was acquired through exchange with the Washington Department of Natural Resources.

The Refuge offers numerous recreational opportunities, depending on the season. Six campgrounds, equipped with pit toilets and metal fire rings, are open from spring until early winter. During the spring, summer and fall, the Refuge offers ample opportunity for hiking, bicycling, wildlife observation and photography, and horseback riding. Angling and fly fishing opportunities are available at three lakes, in the Little Pend Oreille River, and in scattered beaver ponds. During the fall and early winter hunting for grouse, turkey, white-tailed deer and other species is popular. Winter activities include cross-country skiing and snowshoeing.

Nearly 200 bird species, 58 mammal species, eight reptiles, and six amphibians may be present on the Refuge at various times of the year. The Refuge provides habitat for the threatened Canada lynx and other forest carnivores, and critical winter range for white-tailed deer. Bald eagles winter along the Little Pend Oreille River and have nested at Bayley Lake.

Proposed Action Alternative and Project Impacts

Proposed work for the first phase includes the following:

- Rehabilitation of approximately 5.4 miles of aggregate surface roads, including Starvation Flat Road and Rookery Road
- Stabilization and reinforcement of the abutments at the River Camp bridge
- Replacement of two culverts on the North Fork of Bear Creek, at the upper and lower crossings at Bear Creek Road
- Drainage maintenance, including in-situ cleaning, riprap lining and installation of energy dissipators, at several locations
- Improvement of the McDowell Lake parking area
- Formalization of an unimproved area adjacent to Rookery Road currently used for parking
- Improvement and formalization of 23 locations along the routes that are currently used as turnouts on the single-lane roads, into safe, uniform turnouts

Future phases will include the following:

- Rehabilitation of approximately 8.5 miles of aggregate surface roads, including Blacktail Mountain Road
- Replacement of railings and decking on the River Camp bridge
- Drainage maintenance, including in-situ cleaning, riprap lining and installation of energy dissipators, at several locations
- Improvement and formalization of 31 locations along the routes that are currently used as turnouts on the single-lane roads into safe, uniform turnouts

Proposed road reconditioning will be restricted to previously disturbed areas within the existing roadway prism. No developed recreational areas or facilities will be acquired or impacted by the proposed actions. The portions of the proposed project which would require Refuge property are the formalizing of the casual use parking area adjacent to Rookery Road, the improvements at the McDowell Lake parking area, and the formalization of the 54 locations along Refuge routes that are currently being used as turnouts. Less than one acre total (0.915 acres) of undeveloped Refuge land will be developed for transportation use as follows:

- Starvation Flat Road and Rookery Road: 0.3300 acres
- McDowell Lake Parking Area: 0.0832 acres
- Casual Use Parking Area (beaver ponds): 0.0570 acres
- Blacktail Mountain Road: 0.4450 acres

Development of these undeveloped areas will enhance the recreational uses of the Refuge by formalizing existing facilities. No temporary or permanent easements will be required for the transportation facilities, as all areas proposed for improvement are managed and maintained by the Refuge.

During construction in the summer, noise in the vicinity of the existing recreational areas could pose a minor temporary annoyance to recreationists. Noise levels are likely to be similar to the heavy vehicle traffic that currently uses the routes for commercial transit. No construction would occur at night, and road closures will be restricted to the minimum needed for work at crossings. Commercial traffic would not be interrupted. Impacts to species are not anticipated, due to the short duration of the work, the restriction of work to previously disturbed and adjacent areas, and

the restriction of work to the summer season. Refer to Attachment A for a map of the project vicinity.

Minimization and Mitigation

The original proposal for transportation improvements included development of a material source on Refuge land to provide aggregate material for this project and future maintenance needs. This proposed source was withdrawn from the project, and a commercial source will be used. Wastes will be deposited at existing waste locations, and no new disturbance or development will be required for waste deposition.

All improvements to turnouts and parking areas have been designed to minimize new ground disturbance and preserve vegetation to the extent possible. The casual use parking area on Rookery Road has been designed to formalize an area already being disturbed by vehicles, and is situated so as to minimize disturbance to vegetation and establish clear parking boundaries to eliminate future habitat disturbance. The project improves the existing roadway following the existing roadway alignment and grade, thereby minimizing cuts, fills, and other impacts outside the existing roadway limits. No mature trees will be removed for these improvements. Improvements to turnouts and parking areas have been aligned so as to minimize removal of immature trees. The USFWS will stack and use the wood for Refuge purposes.

Coordination

The proposed project has been coordinated with the USFWS, the U.S. Army Corps of Engineers, the Washington State Department of Ecology, and the Washington State Department of Fish and Wildlife.

***De minimis* Determination**

Impacts of a transportation project to Little Pend Oreille National Wildlife Refuge resources that qualify for Section 4(f) protection have been determined to be *de minimis* for the following reasons:

1. The transportation use of the Section 4(f) resource, together with any impact avoidance, minimization, and mitigation or enhancement measures incorporated into the project, does not adversely affect the activities, features, and attributes that qualify the resources for protection under Section 4(f).
2. The officials with jurisdiction over the property have been informed of the FHWA's or FTA's intent to make the *de minimis* impact finding and have provided written concurrence that the project would not adversely affect the activities, features, and attributes that qualify the property for protection under Section 4(f).
3. The public will be afforded an opportunity to review and comment on the effects of the project on the protected activities, features, and attributes of the Section 4(f) resource. The document will be available at the Stevens County offices and on the project web site, and will be advertised in the *Colville Statesman-Examiner*.

Attachment A – Vicinity Map

